

computed with the adjustments provided in section 545 (whether or not the taxpayer was a personal holding company for either of such preceding taxable years), and there shall also be determined for each such year the deduction for dividends paid during such year as provided in section 561 (but determined without regard to the dividend carryover to such year).

(2) There shall be determined for each such taxable year whether there is an excess of such taxable income over such deduction for dividends paid or an excess of such deduction for dividends paid over such taxable income, and the amount of each such excess.

(3) If there is an excess of such deductions for dividends paid over such taxable income for the first preceding taxable year, such excess shall be allowed as a dividend carryover to the taxable year.

(4) If there is an excess of such deduction for dividends paid over such taxable income for the second preceding taxable year, such excess shall be reduced by the amount determined in paragraph (5), and the remainder of such excess shall be allowed as a dividend carryover to the taxable year.

(5) The amount of the reduction specified in paragraph (4) shall be the amount of the excess of the taxable income, if any, for the first preceding taxable year over such deduction for dividends paid, if any, for the first preceding taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 200; Pub. L. 94-455, title XIX, §1901(a)(81), Oct. 4, 1976, 90 Stat. 1778.)

#### AMENDMENTS

1976—Subsec. (c). Pub. L. 94-455 struck out subsec. (c) which related to the determination of dividend carryover from taxable years to which this subtitle does not apply.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

### § 565. Consent dividends

#### (a) General rule

If any person owns consent stock (as defined in subsection (f)(1)) in a corporation on the last day of the taxable year of such corporation, and such person agrees, in a consent filed with the return of such corporation in accordance with regulations prescribed by the Secretary, to treat as a dividend the amount specified in such consent, the amount so specified shall, except as provided in subsection (b), constitute a consent dividend for purposes of section 561 (relating to the deduction for dividends paid).

#### (b) Limitations

A consent dividend shall not include—

(1) an amount specified in a consent which, if distributed in money, would constitute, or be part of, a distribution which would be disqualified for purposes of the dividends paid deduction under section 562(c) (relating to preferential dividends), or

(2) an amount specified in a consent which would not constitute a dividend (as defined in section 316) if the total amounts specified in consents filed by the corporation had been distributed in money to shareholders on the last day of the taxable year of such corporation.

#### (c) Effect of consent

The amount of a consent dividend shall be considered, for purposes of this title—

(1) as distributed in money by the corporation to the shareholder on the last day of the taxable year of the corporation, and

(2) as contributed to the capital of the corporation by the shareholder on such day.

#### (d) Consent dividends and other distributions

If a distribution by a corporation consists in part of consent dividends and in part of money or other property, the entire amount specified in the consents and the amount of such money or other property shall be considered together for purposes of applying this title.

#### (e) Nonresident aliens and foreign corporations

In the case of a consent dividend which, if paid in money would be subject to the provisions of section 1441 (relating to withholding of tax on nonresident aliens) or section 1442 (relating to withholding of tax on foreign corporations), this section shall not apply unless the consent is accompanied by money, or such other medium of payment as the Secretary may by regulations authorize, in an amount equal to the amount that would be required to be deducted and withheld under sections 1441 or 1442 if the consent dividend had been, on the last day of the taxable year of the corporation, paid to the shareholder in money as a dividend. The amount accompanying the consent shall be credited against the tax imposed by this subtitle on the shareholder.

#### (f) Definitions

##### (1) Consent stock

Consent stock, for purposes of this section, means the class or classes of stock entitled, after the payment of preferred dividends, to a share in the distribution (other than in complete or partial liquidation) within the taxable year of all the remaining earnings and profits, which share constitutes the same proportion of such distribution regardless of the amount of such distribution.

##### (2) Preferred dividends

Preferred dividends, for purposes of this section, means a distribution (other than in complete or partial liquidation), limited in amount, which must be made on any class of stock before a further distribution (other than in complete or partial liquidation) of earnings and profits may be made within the taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 200; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### AMENDMENTS

1976—Subsecs. (a), (e). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

### Subchapter H—Banking Institutions

Part  
I.

Rules of general application to banking institutions.

Part  
II. Mutual savings banks, etc.

#### AMENDMENTS

1976—Pub. L. 94-455, title XIX, §1901(b)(20)(C), Oct. 4, 1976, 90 Stat. 1797, struck out item for part III “Bank affiliates”.

### PART I—RULES OF GENERAL APPLICATION TO BANKING INSTITUTIONS

Sec.  
581. Definition of bank.  
582. Bad debts, losses, and gains with respect to securities held by financial institutions.  
[583. Repealed.]  
584. Common trust funds.  
585. Reserves for losses on loans of banks.  
[586. Repealed.]

#### AMENDMENTS

1986—Pub. L. 99-514, title IX, §901(d)(4)(H), Oct. 22, 1986, 100 Stat. 2380, struck out item 586 “Reserves for losses on loans of small business investment companies, etc.”

1976—Pub. L. 94-455, title XIX, §1901(b)(18), Oct. 4, 1976, 90 Stat. 1796, struck out item 583 “Deductions of dividends paid on certain preferred stock”.

1969—Pub. L. 91-172, title IV, §431(c)(2), Dec. 30, 1969, 83 Stat. 620, substituted “Bad debts, losses, and gains with respect to securities held by financial institutions”, for “Bad debt and loss deduction with respect to securities held by banks” in item 582, and added items 585 and 586.

#### § 581. Definition of bank

For purposes of sections 582 and 584, the term “bank” means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia) or of any State, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by State, Territorial, or Federal authority having supervision over banking institutions. Such term also means a domestic building and loan association.

(Aug. 16, 1954, ch. 736, 68A Stat. 202; Pub. L. 87-722, §5, Sept. 28, 1962, 76 Stat. 670; Pub. L. 94-455, title XIX, §1901(c)(5), Oct. 4, 1976, 90 Stat. 1803.)

#### AMENDMENTS

1976—Pub. L. 94-455 substituted “or of any State” for “of any State, or of any Territory” after “District of Columbia)” and struck out “Territorial” after “examination by State”.

1962—Pub. L. 87-722 substituted “authority of the Comptroller of the Currency” for “section 11(k) of the Federal Reserve Act (38 Stat. 262; 12 U.S.C. 248(k))”.

#### § 582. Bad debts, losses, and gains with respect to securities held by financial institutions

##### (a) Securities

Notwithstanding sections 165(g)(1) and 166(e), subsections (a) and (b) of section 166 (relating to allowance of deduction for bad debts) shall apply in the case of a bank to a debt which is evidenced by a security as defined in section 165(g)(2)(C).

##### (b) Worthless stock in affiliated bank

For purposes of section 165(g)(1), where the taxpayer is a bank and owns directly at least 80 percent of each class of stock of another bank, stock in such other bank shall not be treated as a capital asset.

##### (c) Bond, etc., losses and gains of financial institutions

###### (1) General rule

For purposes of this subtitle, in the case of a financial institution referred to in paragraph (2), the sale or exchange of a bond, debenture, note, or certificate or other evidence of indebtedness shall not be considered a sale or exchange of a capital asset. For purposes of the preceding sentence, any regular or residual interest in a REMIC shall be treated as an evidence of indebtedness.

###### (2) Financial institutions to which paragraph (1) applies

###### (A) In general

For purposes of paragraph (1), the financial institutions referred to in this paragraph are—

- (i) any bank (and any corporation which would be a bank except for the fact it is a foreign corporation),
- (ii) any financial institution referred to in section 591,
- (iii) any small business investment company operating under the Small Business Investment Act of 1958, and
- (iv) any business development corporation.

###### (B) Business development corporation

For purposes of subparagraph (A), the term “business development corporation” means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

###### (C) Limitations on foreign banks

In the case of a foreign corporation referred to in subparagraph (A)(i), paragraph (1) shall only apply to gains and losses which are effectively connected with the conduct of a banking business in the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 202; Pub. L. 85-866, title I, §34, Sept. 2, 1958, 72 Stat. 1632; Pub. L. 91-172, title IV, §433(a), (c), Dec. 30, 1969, 83 Stat. 623, 624; Pub. L. 94-455, title X, §1044(a), title XIV, §1402(b)(1)(G), (2), Oct. 4, 1976, 90 Stat. 1642, 1732; Pub. L. 98-369, div. A, title X, §1001(b)(6), (e), July 18, 1984, 98 Stat. 1011, 1012; Pub. L. 99-514, title VI, §671(b)(4), title IX, §901(d)(3), Oct. 22, 1986, 100 Stat. 2318, 2379; Pub. L. 100-647, title I, §1008(d)(3), Nov. 10, 1988, 102 Stat. 3439; Pub. L. 101-508, title XI, §11801(a)(25), (c)(11), Nov. 5, 1990, 104 Stat. 1388-521, 1388-527;

Pub. L. 104-188, title I, §1621(b)(4), Aug. 20, 1996, 110 Stat. 1867; Pub. L. 108-357, title VIII, §835(b)(3), Oct. 22, 2004, 118 Stat. 1593.)

#### REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in subsec. (c)(2)(A)(iii), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

#### AMENDMENTS

2004—Subsec. (c)(1). Pub. L. 108-357 struck out “, and any regular interest in a FASIT,” before “shall be treated”.

1996—Subsec. (c)(1). Pub. L. 104-188 inserted “, and any regular interest in a FASIT,” after “REMIC”.

1990—Subsec. (c)(1). Pub. L. 101-508, §11801(c)(11)(A), substituted “paragraph (2)” for “paragraph (5)”.

Subsec. (c)(2). Pub. L. 101-508, §11801(a)(25), (c)(11)(B), redesignated par. (5) as (2) and struck out former par. (2) “Transitional rule for banks” which read as follows: “In the case of a bank, if the net long-term capital gains of the taxable year from sales or exchanges of qualifying securities exceed the net short-term capital losses of the taxable year from such sales or exchanges, such excess shall be considered as gain from the sale of a capital asset held for more than 6 months to the extent it does not exceed the net gain on sales and exchanges described in paragraph (1).”

Subsec. (c)(3). Pub. L. 101-508, §11801(a)(25), struck out par. (3) “Special rules” which read as follows: “For purposes of this subsection—

“(A) The term ‘qualifying security’ means a bond, debenture, note, or certificate or other evidence of indebtedness held by a bank on July 11, 1969.

“(B) The amount treated as capital gain or loss from the sale or exchange of a qualifying security shall be determined by multiplying the amount of capital gain or loss from the sale or exchange of such security (determined without regard to this subsection) by a fraction, the numerator of which is the number of days before July 12, 1969, that such security was held by the bank, and the denominator of which is the number of days the security was held by the bank.”

Subsec. (c)(4). Pub. L. 101-508, §11801(a)(25), struck out par. (4) “Transitional rule for banks” which read as follows: “In the case of a corporation which would be a bank except for the fact that it is a foreign corporation, the net gain, if any, for the taxable year on sales and exchanges described in paragraph (1) shall be considered as gain from the sale or exchange of a capital asset to the extent such net gain does not exceed the portion of any capital loss carryover to such taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) for a taxable year beginning before July 12, 1969. For purposes of the preceding sentence, the portion of a net capital loss for a taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) is the amount of the net capital loss on such sales or exchanges for such taxable year (but not in excess of the net capital loss for such taxable year).”

Subsec. (c)(5). Pub. L. 101-508, §11801(c)(11)(B), redesignated par. (5) as (2).

1988—Subsec. (a). Pub. L. 100-647 substituted “subsections (a) and (b) of section 166” for “subsections (a), (b), and (c) of section 166”.

1986—Subsec. (c)(1). Pub. L. 99-514, §901(d)(3)(A), substituted “referred to in paragraph (5)” for “to which section 585, 586, or 593 applies”.

Pub. L. 99-514, §671(b)(4), inserted “For purposes of the preceding sentence, any regular or residual interest in a REMIC shall be treated as an evidence of indebtedness.”

Subsec. (c)(5). Pub. L. 99-514, §901(d)(3)(B), added par. (5).

1984—Subsec. (c)(2). Pub. L. 98-369 substituted “6 months” for “1 year”, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

1976—Subsec. (c)(2). Pub. L. 94-455, §1402(b)(2), provided that “9 months” would be changed to “1 year”.

Pub. L. 94-455, §1402(b)(1)(G), (2), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977.

Subsec. (c)(4). Pub. L. 94-455, §1044(a), added par. (4). 1969—Pub. L. 91-172, §433(c), substituted “Bad debts, losses, and gains with respect to securities held by financial institutions” for “Bad debt and loss deduction with respect to securities held by banks” in section catchline.

Subsec. (c). Pub. L. 91-172, §433(a), redesignated existing provisions as par. (1), inserted reference to sections 585, 586 and 593, and added pars. (2) and (3).

1958—Subsec. (c). Pub. L. 85-866 struck out “with interest coupons or in registered form,” before “exceed the gains”.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 effective Jan. 1, 2005, with exception for any FASIT in existence on Oct. 22, 2004, to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance, see section 835(c) of Pub. L. 108-357, set out as a note under section 56 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective Sept. 1, 1997, see section 1621(d) of Pub. L. 104-188, set out as a note under section 26 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 671(b)(4) of Pub. L. 99-514 effective Jan. 1, 1987, see section 675(a) of Pub. L. 99-514, as amended, set out as an Effective Date note under section 860A of this title.

Amendment by section 901(d)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 901(e) of Pub. L. 99-514, set out as a note under section 166 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98-369, set out as a note under section 166 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Section 1044(b) of Pub. L. 94-455, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after July 11, 1969.

“(2) If the refund or credit of any overpayment attributable to the application of the amendment made by subsection (a) to any taxable year is otherwise prevented by the operation of any law or rule of law (other than section 7122 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], relating to compromises) on the day which is one year after the date of the enactment of this Act [Oct. 4, 1976], such credit or refund shall be nevertheless allowed or made if claim therefor is filed on or before such day.”

Section 1402(b)(1) of Pub. L. 94-455 provided that amendment made by that section is effective with respect to taxable years beginning in 1977.

Section 1402(b)(2) of Pub. L. 94-455 provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

#### EFFECTIVE DATE OF 1969 AMENDMENT

Section 433(d) of Pub. L. 91-172, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 1243 of this title] shall apply to taxable years beginning after July 11, 1969.

“(2) ELECTION FOR SMALL BUSINESS INVESTMENT COMPANIES AND BUSINESS DEVELOPMENT CORPORATIONS.—Notwithstanding paragraph (1), in the case of a financial institution described in section 586(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the amendments made by this section [amending this section and section 1243 of this title] shall not apply for its taxable years beginning after July 11, 1969, and before July 11, 1974, unless the taxpayer so elects at such time and in such manner as shall be prescribed by the Secretary of the Treasury or his delegate. Such election shall be irrevocable and shall apply to all such taxable years.”

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85-866, set out as a note under section 165 of this title.

#### SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

### **[§ 583. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(82), Oct. 4, 1976, 90 Stat. 1778]**

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 202, related to deductions by certain taxpayers of dividends paid to the United States or any instrumentality thereof exempt from Federal income taxes on the preferred stock of the corporation owned by the United States or such instrumentality.

#### EFFECTIVE DATE OF REPEAL

Repeal effective with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

## **§ 584. Common trust funds**

### **(a) Definitions**

For purposes of this subtitle, the term “common trust fund” means a fund maintained by a bank—

(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity—

(A) as a trustee, executor, administrator, or guardian, or

(B) as a custodian of accounts—

(i) which the Secretary determines are established pursuant to a State law which is substantially similar to the Uniform Gifts to Minors Act as published by the American Law Institute, and

(ii) with respect to which the bank establishes, to the satisfaction of the Secretary, that it has duties and responsibilities

similar to duties and responsibilities of a trustee or guardian; and

(2) in conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks.

For purposes of this subsection, two or more banks which are members of the same affiliated group (within the meaning of section 1504) shall be treated as one bank for the period of affiliation with respect to any fund of which any of the member banks is trustee or two or more of the member banks are cotrustees.

### **(b) Taxation of common trust funds**

A common trust fund shall not be subject to taxation under this chapter and for purposes of this chapter shall not be considered a corporation.

### **(c) Income of participants in fund**

Each participant in the common trust fund in computing its taxable income shall include, whether or not distributed and whether or not distributable—

(1) as part of its gains and losses from sales or exchanges of capital assets held for not more than 1 year, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 1 year,

(2) as part of its gains and losses from sales or exchanges of capital assets held for more than 1 year, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 1 year, and

(3) its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 1(h)(11) applies shall be considered for purposes of such paragraph as having been received by such participant.

### **(d) Computation of common trust fund income**

The taxable income of a common trust fund shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(1) there shall be segregated the gains and losses from sales or exchanges of capital assets;

(2) after excluding all items of gain and loss from sales or exchanges of capital assets, there shall be computed—

(A) an ordinary taxable income which shall consist of the excess of the gross income over deductions; or

(B) an ordinary net loss which shall consist of the excess of the deductions over the gross income; and

(3) the deduction provided by section 170 (relating to charitable, etc., contributions and gifts) shall not be allowed.

**(e) Admission and withdrawal**

No gain or loss shall be realized by the common trust fund by the admission or withdrawal of a participant. The admission of a participant shall be treated with respect to the participant as the purchase of, or an exchange for, the participating interest. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

**(f) Different taxable years of common trust fund and participant**

If the taxable year of the common trust fund is different from that of a participant, the inclusions with respect to the taxable income of the common trust fund, in computing the taxable income of the participant for its taxable year, shall be based upon the taxable income of the common trust fund for any taxable year of the common trust fund ending within or with the taxable year of the participant.

**(g) Net operating loss deduction**

The benefit of the deduction for net operating losses provided by section 172 shall not be allowed to a common trust fund, but shall be allowed to the participants in the common trust fund under regulations prescribed by the Secretary.

**(h) Nonrecognition treatment for certain transfers to regulated investment companies****(1) In general**

If—

(A) a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

**(2) Basis rules****(A) Regulated investment company**

The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

**(B) Participants**

The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

**(3) Treatment of assumptions of liability****(A) In general**

In determining whether the transfer referred to in paragraph (1)(A) is in exchange

solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund shall be disregarded.

**(B) Special rule where assumed liabilities exceed basis****(i) In general**

If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.

**(ii) Assumed liabilities**

For purposes of clause (i), the term “assumed liabilities” means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

**(C) Assumption**

For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.

**(4) Common trust fund must meet diversification rules**

This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).

**(i) Taxable year of common trust fund**

For purposes of this subtitle, the taxable year of any common trust fund shall be the calendar year.

(Aug. 16, 1954, ch. 736, 68A Stat. 203; Pub. L. 87-722, §4, Sept. 28, 1962, 76 Stat. 670; Pub. L. 88-272, title II, §201(d)(5), Feb. 26, 1964, 78 Stat. 32; Pub. L. 94-414, §1, Sept. 17, 1976, 90 Stat. 1273;

Pub. L. 94-455, title XIV, §1402(b)(1)(H), (2), title XIX, §§1901(b)(1)(G), 1906(b)(13)(A), title XXI, §§2131(d), 2138, Oct. 4, 1976, 90 Stat. 1732, 1790, 1834, 1924, 1932; Pub. L. 95-30, title I, §101(d)(7), May 23, 1977, 91 Stat. 133; Pub. L. 96-223, title IV, §404(b)(3), Apr. 2, 1980, 94 Stat. 306; Pub. L. 97-34, title III, §301(b)(3), (6)(A), Aug. 13, 1981, 95 Stat. 270; Pub. L. 97-448, title I, §103(a)(2), Jan. 12, 1983, 96 Stat. 2375; Pub. L. 98-369, div. A, title X, §1001(b)(7), (e), July 18, 1984, 98 Stat. 1011, 1012; Pub. L. 99-514, title VI, §612(b)(2), Oct. 22, 1986, 100 Stat. 2250; Pub. L. 100-647, title I, §1008(e)(5)(A), Nov. 10, 1988, 102 Stat. 3440; Pub. L. 104-188, title I, §1805(a), Aug. 20, 1996, 110 Stat. 1894; Pub. L. 106-36, title III, §3001(c)(1), June 25, 1999, 113 Stat. 183; Pub. L. 108-27, title III, §302(e)(7), May 28, 2003, 117 Stat. 764.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 303 of Pub. L. 108-27, see Effective and Termination Dates of 2003 Amendment note below.*

#### AMENDMENTS

2003—Subsec. (c). Pub. L. 108-27, §§302(e)(7), 303, temporarily inserted concluding provisions. See Effective and Termination Dates of 2003 Amendment note below.

1999—Subsec. (h)(3)(A). Pub. L. 106-36, §3001(c)(1)(A), struck out “, and the fact that any property transferred by the common trust fund is subject to a liability,” before “shall be disregarded”.

Subsec. (h)(3)(B)(ii). Pub. L. 106-36, §3001(c)(1)(B), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: “For purposes of clause (i), the term ‘assumed liabilities’ means the aggregate of—

“(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

“(II) any liability to which property so transferred is subject.”

Subsec. (h)(3)(C). Pub. L. 106-36, §3001(c)(1)(B), added subpar. (C).

1996—Subsecs. (h), (i). Pub. L. 104-188 added subsec. (h) and redesignated former subsec. (h) as (i).

1988—Subsec. (h). Pub. L. 100-647 added subsec. (h).

1986—Subsec. (c). Pub. L. 99-514, §612(b)(2)(B), substituted “1 year” for “6 months” wherever appearing in pars. (1) and (2).

Pub. L. 99-514, §612(b)(2)(A), amended subsec. (c) generally, restating subpars. (A) to (C) of former par. (1) as pars. (1) to (3) and striking out former par. (2) which read as follows: “The proportionate share of each participant in the amount of dividends or interest received by the common trust fund and to which section 116 or 128 applies shall be considered for purposes of such section as having been received by such participant.”

1984—Subsec. (c)(1)(A), (B). Pub. L. 98-369 substituted “6 months” for “1 year”, wherever appearing, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

1983—Subsec. (c)(2). Pub. L. 97-448 reenacted par. (2) without change.

1981—Subsec. (c)(2). Pub. L. 97-34, §301(b)(6)(A), inserted reference to “interest” in heading and text, which continued the amendment made by Pub. L. 96-223.

Pub. L. 97-34, §301(b)(3), inserted “or 128” after “section 116”.

1980—Subsec. (c)(2). Pub. L. 96-223 inserted “or interest” after “dividends” in heading and text.

1977—Subsec. (d)(4). Pub. L. 95-30 struck out par. (4) relating to standard deduction.

1976—Subsec. (a). Pub. L. 94-414 inserted provision relating to treatment of two or more bank members of same affiliated group.

Subsec. (a)(1). Pub. L. 94-455, §2138, designated existing provisions relating to trustee, executor, adminis-

trator and guardian as subpar. (A) and added subpar. (B).

Subsec. (c)(1)(A), (B). Pub. L. 94-455, §1402(b)(2), provided that “9 months” would be changed to “1 year” wherever appearing.

Pub. L. 94-455, §1402(b)(1)(H), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977.

Subsec. (c)(2). Pub. L. 94-455, §1901(b)(1)(G), struck out provisions relating to partially tax exempt interest and election of a common trust fund to amortize premiums on bonds and other obligations.

Subsec. (e). Pub. L. 94-455, §2131(d), inserted “The admission of a participant shall be treated with respect to the participant as the purchase of, or exchange for, the participating interest”.

Subsec. (g). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1964—Subsec. (c)(2). Pub. L. 88-272 struck out “section 34 or” before “section 116 applies”.

1962—Subsec. (a)(2). Pub. L. 87-722 inserted “or the Comptroller of the Currency” after “the Board of Governors of the Federal Reserve System”.

#### EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108-27 applicable, except as otherwise provided, to taxable years beginning after Dec. 31, 2002, see section 302(f) of Pub. L. 108-27, set out as a note under section 1 of this title.

Amendment by Pub. L. 108-27 inapplicable to taxable years beginning after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 303 of Pub. L. 108-27, as amended, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-36 applicable to transfers after Oct. 18, 1998, see section 3001(e) of Pub. L. 106-36, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 1805(b) of Pub. L. 104-188 provided that: “The amendment made by subsection (a) [amending this section] shall apply to transfers after December 31, 1995.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 1008(e)(5)(B) of Pub. L. 100-647 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the amendments made by section 806 of the Reform Act [Pub. L. 99-514], except that section 806(e)(1) [set out as a note under section 1378 of this title] shall be applied by substituting ‘December 31, 1987’ for ‘December 31, 1986’. For purposes of section 806(e)(2) of the Reform Act [set out as a note under section 1378 of this title]—

“(i) a participant in a common trust fund shall be treated in the same manner as a partner, and

“(ii) subparagraph (C) thereof shall be applied by substituting ‘December 31, 1987’ for ‘December 31, 1986’ and as if it did not contain the election to include all income in the short taxable year.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 612(b)(2)(B) of Pub. L. 99-514 provided that: “If the amendments made by section 1001 of the Tax Reform Act of 1984 [Pub. L. 98-369, amending this section and sections 166, 341, 402, 403, 423, 582, 631, 642, 702, 818, 852, 856, 857, 1222, 1223, 1231, 1232, 1233, 1234, 1235, 1246, 1247, and 1248 of this title] cease to apply [see Effective Date of 1984 Amendment note below], effective with respect to property to which such amendments do not apply, subsection (c) of section 584 is amended by striking out ‘6 months’ each place it appears and inserting in lieu thereof ‘1 year’.”

Amendment by section 612(b)(2) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 612(c) of Pub. L. 99-514, set out as a note under section 301 of this title.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98-369, set out as a note under section 166 of this title.

## EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 301(b)(3) of Pub. L. 97-34 applicable to taxable years ending after Sept. 30, 1981, and amendment by section 301(b)(6)(A) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 301(d) of Pub. L. 97-34, set out as a note under section 265 of this title.

## EFFECTIVE AND TERMINATION DATES OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable with respect to taxable years beginning after Dec. 31, 1980, and before Jan. 1, 1982, see section 404(c) of Pub. L. 96-223, set out as a note under section 265 of this title.

## EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1976 AMENDMENTS

Section 2131(f)(6) of Pub. L. 94-455 provided that: "The amendments made by subsections (d) and (e) [amending this section and section 683 of this title] shall take effect on April 8, 1976, in taxable years ending on or after such date."

Section 1402(b)(1) of Pub. L. 94-455 provided that the amendment made by that section is effective with respect to taxable years beginning in 1977.

Section 1402(b)(2) of Pub. L. 94-455 provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

Amendment by section 1901(b)(1)(G) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

Section 2 of Pub. L. 94-414 provided that: "The amendment made by the first section of this Act [amending this section] shall apply to taxable years beginning after December 31, 1975."

## EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable with respect to dividends received after Dec. 31, 1964, in taxable years ending after such date, see section 201(e) of Pub. L. 88-272, set out as a note under section 22 of this title.

**§ 585. Reserves for losses on loans of banks****(a) Reserve for bad debts****(1) In general**

Except as provided in subsection (c), a bank shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

**(2) Bank**

For purposes of this section—

**(A) In general**

The term "bank" means any bank (as defined in section 581).

**(B) Banking business of United States branch of foreign corporation**

The term "bank" also includes any corporation to which subparagraph (A) would apply except for the fact that it is a foreign corporation. In the case of any such foreign corporation, this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.

**(b) Addition to reserves for bad debts****(1) General rule**

For purposes of subsection (a), the reasonable addition to the reserve for bad debts of any financial institution to which this section applies shall be an amount determined by the taxpayer which shall not exceed the addition to the reserve for losses on loans determined under the experience method as provided in paragraph (2).

**(2) Experience method**

The amount determined under this paragraph for a taxable year shall be the amount necessary to increase the balance of the reserve for losses on loans (at the close of the taxable year) to the greater of—

(A) the amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Secretary, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such 6 or fewer taxable years, or

(B) the lower of—

(i) the balance of the reserve at the close of the base year, or

(ii) if the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of this paragraph, the base year shall be the last taxable year before the most recent adoption of the experience method, except that for taxable years beginning after 1987 the base year shall be the last taxable year beginning before 1988.

**(3) Regulations; definition of loan**

The Secretary shall define the term loan and prescribe such regulations as may be necessary to carry out the purposes of this section.

**(c) Section not to apply to large banks****(1) In general**

In the case of a large bank, this section shall not apply (and no deduction shall be allowed under any other provision of this subtitle for any addition to a reserve for bad debts).

**(2) Large banks**

For purposes of this subsection, a bank is a large bank if, for the taxable year (or for any

preceding taxable year beginning after December 31, 1986)—

(A) the average adjusted bases of all assets of such bank exceeded \$500,000,000, or

(B) such bank was a member of a parent-subsidiary controlled group and the average adjusted bases of all assets of such group exceeded \$500,000,000.

### (3) 4-year spread of adjustments

#### (A) In general

Except as provided in paragraph (4), in the case of any bank which for its last taxable year before the disqualification year maintained a reserve for bad debts—

(i) the provisions of this subsection shall be treated as a change in the method of accounting of such bank for the disqualification year,

(ii) such change shall be treated as having been made with the consent of the Secretary, and

(iii) the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer shall be taken into account in each of the 4 taxable years beginning with the disqualification year with—

(I) the amount taken into account for the 1st of such taxable years being the greater of 10 percent of such net amount or such higher percentage of such net amount as the taxpayer may elect, and

(II) the amount taken into account in each of the 3 succeeding taxable years being equal to the applicable fraction (determined in accordance with the following table for the taxable year involved) of the portion of such net amount not taken into account under subclause (I).

If the case of the—	The applicable fraction is—
1st succeeding year .....	$\frac{2}{3}$
2nd succeeding year .....	$\frac{1}{3}$
3rd succeeding year .....	$\frac{1}{6}$

### (B) Suspension of recapture for taxable year for which bank is financially troubled

#### (i) In general

In the case of a bank which is a financially troubled bank for any taxable year—

(I) no adjustment shall be taken into account under subparagraph (A) for such taxable year, and

(II) such taxable year shall be disregarded in determining whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under subparagraph (A) or the amount of such adjustment.

#### (ii) Exception for elective recapture for 1st year

Clause (i) shall not apply to the 1st taxable year referred to in subparagraph (A)(iii)(I) if the taxpayer elects a higher percentage in accordance with such subparagraph.

#### (iii) Financially troubled bank

For purposes of clause (i), the term “financially troubled bank” means any bank

if, for the taxable year, the nonperforming loan percentage of such bank exceeds 75 percent.

#### (iv) Nonperforming loan percentage

For purposes of clause (iii), the term “nonperforming loan percentage” means the percentage determined by dividing—

(I) the sum of the outstanding balances of nonperforming loans of the bank as of the close of each quarter of the taxable year, by

(II) the sum of the amounts of equity of the bank as of the close of each such quarter.

In the case of a bank which is a member of a parent-subsidiary controlled group for the taxable year, the preceding sentence shall be applied with respect to such group.

#### (v) Other definitions

For purposes of this subparagraph—

##### (I) Nonperforming loans

The term “nonperforming loan” means any loan which is considered to be nonperforming by the primary Federal regulatory agency with respect to the bank.

##### (II) Equity

The term “equity” means the equity of the bank as determined for Federal regulatory purposes.

#### (C) Coordination with estimated tax payments

For purposes of applying section 6655(e)(2)(A)(i) with respect to any installment, the determination under subparagraph (B) of whether an adjustment is required to be taken into account under subparagraph (A) shall be made as of the last day prescribed for payment of such installment.

#### (4) Elective cut-off method

If a bank makes an election under this paragraph for the disqualification year—

(A) the provisions of this subsection shall not be treated as a change in the method of accounting of the taxpayer for purposes of section 481,

(B) the taxpayer shall continue to maintain its reserve for loans held by the bank as of the 1st day of the disqualification year and charge against such reserve any losses resulting from loans held by the bank as of such 1st day, and

(C) no deduction shall be allowed under this section (or any other provision of this subtitle) for any addition to such reserve for the disqualification year or any subsequent taxable year.

If the amount of the reserve referred to in subparagraph (B) as of the close of any taxable year exceeds the outstanding balance (as of such time) of the loans referred to in subparagraph (B), such excess shall be included in gross income for such taxable year.

#### (5) Definitions

For purposes of this subsection—



**(A) Parent-subsidiary controlled group**

The term “parent-subsidiary controlled group” means any controlled group of corporations described in section 1563(a)(1). In determining the average adjusted bases of assets held by such a group, interests held by one member of such group in another member of such group shall be disregarded.

**(B) Disqualification year**

The term “disqualification year” means, with respect to any bank, the 1st taxable year beginning after December 31, 1986, for which such bank was a large bank if such bank maintained a reserve for bad debts for the preceding taxable year.

**(C) Election made by each member**

In the case of a parent-subsidiary controlled group, any election under this section shall be made separately by each member of such group.

(Added Pub. L. 91-172, title IV, §431(a), Dec. 30, 1969, 83 Stat. 616; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-34, title II, §267(a), Aug. 13, 1981, 95 Stat. 266; Pub. L. 99-514, title IX, §901(a), (d)(1), Oct. 22, 1986, 100 Stat. 2375, 2378; Pub. L. 100-203, title X, §10301(b)(2), Dec. 22, 1987, 101 Stat. 1330-429; Pub. L. 100-647, title I, §1009(a)(2), (3), Nov. 10, 1988, 102 Stat. 3445; Pub. L. 101-508, title XI, §11801(a)(26), (c)(12)(C)-(E), Nov. 5, 1990, 104 Stat. 1388-521, 1388-527; Pub. L. 104-188, title I, §1616(b)(6), Aug. 20, 1996, 110 Stat. 1856.)

**AMENDMENTS**

1996—Subsec. (a)(2)(A). Pub. L. 104-188 struck out “other than an organization to which section 593 applies” after “section 581”.

1990—Subsec. (b)(1). Pub. L. 101-508, §11801(c)(12)(C), substituted “shall not exceed the addition to the reserve for losses on loans determined under the experience method as provided in paragraph (2).” for “shall not exceed the greater of—

“(A) for taxable years beginning before 1988 the addition to the reserve for losses on loans determined under the percentage method as provided in paragraph (2), or

“(B) the addition to the reserve for losses on loans determined under the experience method as provided in paragraph (3).”

Subsec. (b)(2). Pub. L. 101-508, §11801(a)(26), (c)(12)(D), redesignated par. (3) as (2) and struck out former par. (2) which related to use of percentage method for determining amount to add to reserve for bad debts.

Subsec. (b)(3). Pub. L. 101-508, §11801(c)(12)(D), (E), redesignated par. (4) as (3), substituted heading for one which read: “Regulations; definition of eligible loan, etc.”, and amended text generally. Prior to amendment, text read as follows: “The Secretary shall define the terms ‘loan’ and ‘eligible loan’ and prescribe such regulations as may be necessary to carry out the purposes of this section; except that the term ‘eligible loan’ shall not include—

“(A) a loan to a bank (as defined in section 581),

“(B) a loan to a domestic branch of a foreign corporation to which subsection (a)(2) applies,

“(C) a loan secured by a deposit (i) in the lending bank, or (ii) in an institution described in subparagraph (A) or (B) if the lending bank has control over withdrawal of such deposit,

“(D) a loan to or guaranteed by the United States, a possession or instrumentality thereof, or a State or a political subdivision thereof,

“(E) a loan evidenced by a security as defined in section 165(g)(2)(C),

“(F) a loan of Federal funds, and

“(G) commercial paper, including short-term promissory notes which may be purchased on the open market.” Former par. (3) redesignated (2).

Subsec. (b)(4). Pub. L. 101-508, §11801(c)(12)(D), redesignated par. (4) as (3).

1988—Subsec. (c)(3)(A)(iii)(I). Pub. L. 100-647, §1009(a)(2)(B), substituted “such higher percentage of such net amount as the taxpayer may elect” for “such greater amount as the taxpayer may designate”.

Subsec. (c)(3)(B)(ii). Pub. L. 100-647, §1009(a)(2)(C), substituted “elects a higher percentage” for “designates an amount”.

Subsec. (c)(4). Pub. L. 100-647, §1009(a)(3), inserted at end “If the amount of the reserve referred to in subparagraph (B) as of the close of any taxable year exceeds the outstanding balance (as of such time) of the loans referred to in subparagraph (B), such excess shall be included in gross income for such taxable year.”

Subsec. (c)(5)(C). Pub. L. 100-647, §1009(a)(2)(A), added subpar. (C).

1987—Subsec. (c)(3)(C). Pub. L. 100-203 substituted “section 6655(e)(2)(A)(i)” for “section 6655(d)(3)”.

1986—Subsec. (a). Pub. L. 99-514, §901(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “This section shall apply to the following financial institutions:

“(1) any bank (as defined in section 581) other than an organization to which section 593 applies, and

“(2) any corporation to which paragraph (1) would apply except for the fact that it is a foreign corporation, and in the case of any such foreign corporation this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.”

Subsec. (b)(1). Pub. L. 99-514, §901(d)(1), substituted “subsection (a)” for “section 166(c)”.

Subsec. (c). Pub. L. 99-514, §901(a)(2), added subsec. (c).

1981—Subsec. (b)(2). Pub. L. 97-34 defined “allowable percentage” to mean 1.0 percent for taxable years beginning in 1982 and 0.6 percent for taxable years beginning after 1982, previously so applicable for taxable years beginning after 1981 and redefined “base year” by substituting the last taxable year beginning before 1976 for taxable years beginning after 1975 but before 1983, for the last taxable year beginning before 1976 for taxable years after 1975 but before 1982; and the last taxable year beginning before 1983 for taxable years beginning after 1982, for the last taxable year beginning before 1982 for taxable years beginning after 1981.

1976—Subsec. (b)(3), (4). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1995, see section 1616(c) of Pub. L. 104-188, set out as a note under section 593 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

**EFFECTIVE DATE OF 1987 AMENDMENT**

Section 10301(c) of Pub. L. 100-203 provided that: “The amendments made by this section [amending this section and sections 6201, 6425, 6601, 6651, and 6655 of this title and repealing section 6154 of this title] shall apply to taxable years beginning after December 31, 1987.”

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 901(e) of Pub. L. 99-514, set out as a note under section 166 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT

Section 267(b) of Pub. L. 97-34 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after 1981.”

## EFFECTIVE DATE

Section 431(d) of Pub. L. 91-172 provided that: “The amendments made by subsections (a) [enacting this section and section 586 of this title] and (c) [amending section 166 of this title] shall apply to taxable years beginning after July 11, 1969.”

## SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

**[§ 586. Repealed. Pub. L. 99-514, title IX, § 901(c), Oct. 22, 1986, 100 Stat. 2378]**

Section, added Pub. L. 91-172, title IV, § 431(a), Dec. 30, 1969, 83 Stat. 618; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to reserves for losses on loans of small business investment companies, etc.

## EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1986, see section 901(e) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 166 of this title.

## PART II—MUTUAL SAVINGS BANKS, ETC.

Sec.

- 591. Deduction for dividends paid on deposits.
- [592. Repealed.]
- 593. Reserves for losses on loans.
- 594. Alternative tax for mutual savings banks conducting life insurance business.
- [595, 596. Repealed.]
- 597. Treatment of transactions in which Federal financial assistance provided.

## AMENDMENTS

1996—Pub. L. 104-188, title I, § 1616(b)(16), Aug. 20, 1996, 110 Stat. 1857, struck out items 595 “Foreclosure on property securing loans” and 596 “Limitation on dividends received deduction”.

1989—Pub. L. 101-73, title XIV, § 1401(b)(1), Aug. 9, 1989, 103 Stat. 549, repealed amendment made by Pub. L. 99-514, § 904(b)(2), see 1986 Amendment note below.

Pub. L. 101-73, title XIV, § 1401(a)(3)(C), Aug. 9, 1989, 103 Stat. 549, substituted “Treatment of transactions in which Federal financial assistance provided” for “FSLIC or FDIC financial assistance” in item 597.

1988—Pub. L. 100-647, title IV, § 4012(b)(2)(D)(ii), Nov. 10, 1988, 102 Stat. 3658, substituted “FSLIC or FDIC” for “FSLIC” in item 597.

1986—Pub. L. 99-514, title IX, § 904(b)(2), (c)(2)(A), Oct. 22, 1986, 100 Stat. 2385, as amended by Pub. L. 100-647, title IV, § 4012(a)(2), Nov. 10, 1988, 102 Stat. 3656, which, applicable to transfers after Dec. 31, 1989, in taxable years ending after that date, directed amendment of analysis by striking out item 597, was repealed by Pub. L. 101-73, title XIV, § 1401(b)(1), (c)(4), Aug. 9, 1989, 103 Stat. 549, 550, eff. Oct. 22, 1986, and applicable as if the amendments made by such section had not been enacted.

1981—Pub. L. 97-34, title II, § 244(b), Aug. 13, 1981, 95 Stat. 255, added item 597.

1976—Pub. L. 94-455, title XIX, § 1901(b)(19), Oct. 4, 1976, 90 Stat. 1796, struck out item 592 “Deduction for repayment of certain loans”.

1969—Pub. L. 91-172, title IV, § 434(b)(2), Dec. 30, 1969, 83 Stat. 625, added item 596.

1962—Pub. L. 87-834, § 6(d), Oct. 16, 1962, 76 Stat. 984, substituted “Reserves for losses on loans” for “Additions to reserve for bad debts” in item 593, and added item 595.

**§ 591. Deduction for dividends paid on deposits**

**(a) In general**

In the case of mutual savings banks, cooperative banks, and domestic building and loan associations and other savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, there shall be allowed as deductions in computing taxable income amounts paid to, or credited to the accounts of, depositors or holders of accounts as dividends or interest on their deposits or withdrawable accounts, if such amounts paid or credited are withdrawable on demand subject only to customary notice of intention to withdraw.

**(b) Mutual savings bank to include certain banks with capital stock**

For purposes of this part, the term “mutual savings bank” includes any bank—

- (1) which has capital stock represented by shares, and
- (2) which is subject to, and operates under, Federal or State laws relating to mutual savings bank.

(Aug. 16, 1954, ch. 736, 68A Stat. 204; Pub. L. 87-834, § 6(f), Oct. 16, 1962, 76 Stat. 984; Pub. L. 97-34, title II, § 245(a), Aug. 13, 1981, 95 Stat. 255.)

## AMENDMENTS

1981—Pub. L. 97-34 designated existing provisions as subsec. (a), inserted heading “In general”, and added subsec. (b).

1962—Pub. L. 87-834 included other savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, and authorized amounts paid as interest as a deduction.

## EFFECTIVE DATE OF 1981 AMENDMENT

Section 246(d) of Pub. L. 97-34 provided that: “The amendments made by section 245 [amending this section and section 593 of this title] shall apply with respect to taxable years ending after the date of the enactment of this Act [Aug. 13, 1981].”

**[§ 592. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(83), Oct. 4, 1976, 90 Stat. 1778]**

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 205, authorized a deduction by mutual savings banks for repayment of loans made before Sept. 1, 1951, by the United States or any agency or instrumentality thereof, or any mutual fund established under the authority of the laws of any State.

## EFFECTIVE DATE OF REPEAL

Repeal effective with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

**§ 593. Reserves for losses on loans**

**(a) Reserve for bad debts**

**(1) In general**

Except as provided in paragraph (2), in the case of—

- (A) any domestic building and loan association,
- (B) any mutual savings bank, or
- (C) any cooperative bank without capital stock organized and operated for mutual purposes and without profit,

there shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

**(2) Organization must meet 60-percent asset test of section 7701(a)(19)**

This section shall apply to an association or bank referred to in paragraph (1) only if it meets the requirements of section 7701(a)(19)(C).

**(b) Addition to reserves for bad debts**

**(1) In general**

For purposes of subsection (a), the reasonable addition for the taxable year to the reserve for bad debts of any taxpayer described in subsection (a) shall be an amount equal to the sum of—

(A) the amount determined to be a reasonable addition to the reserve for losses on nonqualifying loans, computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(2), plus

(B) the amount determined by the taxpayer to be a reasonable addition to the reserve for losses on qualifying real property loans, but such amount shall not exceed the amount determined under paragraph (2) or (3), whichever is the larger, but the amount determined under this subparagraph shall in no case be greater than the larger of—

(i) the amount determined under paragraph (3), or

(ii) the amount which, when added to the amount determined under subparagraph (A), equals the amount by which 12 percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of its surplus, undivided profits, and reserves at the beginning of such year (taking into account any portion thereof attributable to the period before the first taxable year beginning after December 31, 1951).

**(2) Percentage of taxable income method**

**(A) In general**

Subject to subparagraphs (B) and (C), the amount determined under this paragraph for the taxable year shall be an amount equal to 8 percent of the taxable income for such year.

**(B) Reduction for amounts referred to in paragraph (1)(A)**

The amount determined under subparagraph (A) shall be reduced (but not below 0) by the amount determined under paragraph (1)(A).

**(C) Overall limitation on paragraph**

The amount determined under this paragraph shall not exceed the amount necessary to increase the balance at the close of the

taxable year of the reserve for losses on qualifying real property loans to 6 percent of such loans outstanding at such time.

**(D) Computation of taxable income**

For purposes of this paragraph, taxable income shall be computed—

(i) by excluding from gross income any amount included therein by reason of subsection (e),

(ii) without regard to any deduction allowable for any addition to the reserve for bad debts,

(iii) by excluding from gross income an amount equal to the net gain for the taxable year arising from the sale or exchange of stock of a corporation or of obligations the interest on which is excludable from gross income under section 103,

(iv) by excluding from gross income dividends with respect to which a deduction is allowable by part VIII of subchapter B, reduced by an amount equal to 8 percent of the dividends received deduction (determined without regard to section 596)<sup>1</sup> for the taxable year, and

(v) if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year, by excluding from gross income the rate differential portion (within the meaning of section 904(b)(3)(E)) of the lesser of—

(I) the net long-term capital gain for the taxable year, or

(II) the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii).

**(3) Experience method**

The amount determined under this paragraph for the taxable year shall be computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(2).

**(c) Treatment of reserve for bad debts**

**(1) Establishment of reserves**

Each taxpayer described in subsection (a) which uses the reserve method of accounting for bad debts shall establish and maintain a reserve for losses on qualifying real property loans, a reserve for losses on nonqualifying loans, and a supplemental reserve for losses on loans. For purposes of this title, such reserves shall be treated as reserves for bad debts, but no deduction shall be allowed for any addition to the supplemental reserve for losses on loans.

**(2) Certain pre-1963 reserves**

Notwithstanding the second sentence of paragraph (1), any amount allocated pursuant to paragraph (5) (as in effect immediately before the enactment of the Tax Reform Act of 1976) during a taxable year beginning before January 1, 1977, to the reserve for losses on qualifying real property loans out of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attrib-

<sup>1</sup> See References in Text note below.

utable to the period before the first taxable year beginning after December 31, 1951, shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b)(1)(B), and for such purpose such amount shall be treated as remaining in such reserve.

**(3) Charging of bad debts to reserves**

Any debt becoming worthless or partially worthless in respect of a qualifying real property loan shall be charged to the reserve for losses on such loans, and any debt becoming worthless or partially worthless in respect of a nonqualifying loan shall be charged to the reserve for losses on nonqualifying loans; except that any such debt may, at the election of the taxpayer, be charged in whole or in part to the supplemental reserve for losses on loans.

**(d) Loans defined**

For purposes of this section—

**(1) Qualifying real property loans**

The term “qualifying real property loan” means any loan secured by an interest in improved real property or secured by an interest in real property which is to be improved out of the proceeds of the loan, but such term does not include—

(A) any loan evidenced by a security (as defined in section 165(g)(2)(C));

(B) any loan, whether or not evidenced by a security (as defined in section 165(g)(2)(C)), the primary obligor on which is—

(i) a government or political subdivision or instrumentality thereof;

(ii) a bank (as defined in section 581); or

(iii) another member of the same affiliated group;

(C) any loan, to the extent secured by a deposit in or share of the taxpayer; or

(D) any loan which, within a 60-day period beginning in one taxable year of the creditor and ending in its next taxable year, is made or acquired and then repaid or disposed of, unless the transactions by which such loan was made or acquired and then repaid or disposed of are established to be for bona fide business purposes. For purposes of subparagraph (B)(iii), the term “affiliated group” has the meaning assigned to such term by section 1504(a); except that (i) the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in section 1504(a), and (ii) all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

**(2) Nonqualifying loans**

The term “nonqualifying loan” means any loan which is not a qualifying real property loan.

**(3) Loan**

The term “loan” means debt, as the term “debt” is used in section 166.

**(4) Treatment of interests in REMIC’s**

A regular or residual interest in a REMIC shall be treated as a qualifying real property loan; except that, if less than 95 percent of the

assets of such REMIC are qualifying real property loans (determined as if the taxpayer held the assets of the REMIC), such interest shall be so treated only in the proportion which the assets of such REMIC consist of such loans. For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMIC’s are part of a tiered structure, they shall be treated as 1 REMIC for purposes of this paragraph.

**(e) Distributions to shareholders**

**(1) In general**

For purposes of this chapter, any distribution of property (as defined in section 317(a)) by a taxpayer having a balance described in subsection (g)(2)(A)(ii) to a shareholder with respect to its stock, if such distribution is not allowable as a deduction under section 591, shall be treated as made—

(A) first out of its earnings and profits accumulated in taxable years beginning after December 31, 1951, (and, in the case of an S corporation, the accumulated adjustments account, as defined in section 1368(e)(1)) to the extent thereof,

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),

(C) then out of the supplemental reserve for losses on loans, to the extent thereof,

(D) then out of such other accounts as may be proper.

This paragraph shall apply in the case of any distribution in redemption of stock or in partial or complete liquidation of a taxpayer having a balance described in subsection (g)(2)(A)(ii), except that any such distribution shall be treated as made first out of the amount referred to in subparagraph (B), second out of the amount referred to in subparagraph (C), third out of the amount referred to in subparagraph (A), and then out of such other accounts as may be proper. This paragraph shall not apply to any transaction to which section 381 applies, or to any distribution to the Federal Savings and Loan Insurance Corporation (or any successor thereof) or the Federal Deposit Insurance Corporation in redemption of an interest in a taxpayer having a balance described in subsection (g)(2)(A)(ii), if such interest was originally received by any such entity in exchange for assistance provided under a provision of law referred to in section 597(c). This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.

**(2) Amounts charged to reserve accounts and included in gross income**

If any distribution is treated under paragraph (1) as having been made out of the reserves described in subparagraphs (B) and (C) of such paragraph, the amount charged against such reserve shall be the amount which, when reduced by the amount of tax imposed under this chapter and attributable to the inclusion of such amount in gross income, is equal to the amount of such distribution; and the amount so charged against such reserve shall be included in gross income of the taxpayer.

**(3) Special rules**

(A) For purposes of paragraph (1)(B), additions to the reserve for losses on qualifying real property loans for the taxable year in which the distribution occurs shall be taken into account.

(B) For purposes of computing under this section the amount of a reasonable addition to the reserve for losses on qualifying real property loans for any taxable year, any amount charged during any year to such reserve pursuant to the provisions of paragraph (2) shall not be taken into account.

**(f) Termination of reserve method**

Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

**(g) 6-year spread of adjustments**

**(1) In general**

In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

(i) shall be determined by taking into account only applicable excess reserves, and

(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

**(2) Applicable excess reserves**

**(A) In general**

For purposes of paragraph (1), the term “applicable excess reserves” means the excess (if any) of—

(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer’s last taxable year beginning before January 1, 1996, over

(ii) the lesser of—

(I) the balance of such reserves as of the close of the taxpayer’s last taxable year beginning before January 1, 1988, or

(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section

585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

**(B) Special rule for thrifts which become small banks**

In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

**(3) Recapture of pre-1988 reserves where taxpayer ceases to be bank**

If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

**(4) Suspension of recapture if residential loan requirement met**

**(A) In general**

In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

(ii) such taxable year shall be disregarded in determining—

(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(II) the amount of such adjustment.

**(B) Residential loan requirement**

A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

**(C) Residential loan**

For purposes of this paragraph, the term “residential loan” means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, con-

structing, or improving the property described in such clause.

**(D) Base amount**

For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

**(E) Controlled groups**

In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

**(5) Continued application of fresh start under section 585 transitional rules**

In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

**(A) In general**

For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

**(B) Treatment under elective cut-off method**

For purposes of applying section 585(c)(4)—

(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

(ii) no amount shall be includible in gross income by reason of such reduction.

**(6) Suspended reserve included as section 381(c) items**

The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

**(7) Conversions to credit unions**

In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

**(8) Regulations**

The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations.

(Aug. 16, 1954, ch. 736, 68A Stat. 205; Pub. L. 87-834, §6(a), Oct. 16, 1962, 76 Stat. 977; Pub. L. 91-172, title IV, §432(a), (b), Dec. 30, 1969, 83 Stat. 620, 622; Pub. L. 94-455, title XIX, §1901(a)(84), Oct. 4, 1976, 90 Stat. 1778; Pub. L. 96-222, title I, §104(a)(3)(C), Apr. 1, 1980, 94 Stat. 215; Pub. L. 97-34, title II, §§243, 245(b), (c), Aug. 13, 1981, 95 Stat. 255, 256; Pub. L. 99-514, title III, §311(b)(2), title VI, §671(b)(2), title IX, §901(b)(1)-(3), (d)(2), Oct. 22, 1986, 100 Stat. 2219, 2317, 2378; Pub. L. 100-647, title I, §§1003(c)(3), 1006(t)(25)(B), Nov. 10, 1988, 102 Stat. 3384, 3426; Pub. L. 101-73, title XIV, §1401(b)(3), Aug. 9, 1989, 103 Stat. 550; Pub. L. 101-508, title XI, §11801(c)(12)(F), Nov. 5, 1990, 104 Stat. 1388-527; Pub. L. 104-188, title I, §§1616(a), (b)(7), 1704(t)(51), Aug. 20, 1996, 110 Stat. 1854, 1857, 1890; Pub. L. 105-34, title XVI, §1601(f)(5)(A), Aug. 5, 1997, 111 Stat. 1091.)

REFERENCES IN TEXT

Section 596, referred to in subsec. (b)(2)(D)(iv), was repealed by Pub. L. 104-188, title I, §1616(b)(9), Aug. 20, 1996, 110 Stat. 1857.

The Tax Reform Act of 1976, referred to in subsec. (c)(2), is Pub. L. 94-455, Oct. 4, 1976, 90 Stat. 1520, as amended, which was enacted Oct. 4, 1976. For complete classification of this Act to the Code, see Tables.

Section 5(e) of the Federal Deposit Insurance Act, referred to in subsec. (e)(1), is classified to section 1815(e) of Title 12, Banks and Banking.

AMENDMENTS

1997—Subsec. (e)(1)(A). Pub. L. 105-34 inserted “(and, in the case of an S corporation, the accumulated adjustments account, as defined in section 1368(e)(1))” after “1951.”

1996—Subsec. (b)(1)(A), (3). Pub. L. 104-188, §1704(t)(51), provided that the amendment made by section 11801(c)(12)(F) of Pub. L. 101-508 shall be applied as if “and (3)” appeared instead of “and (E)”. See 1990 Amendment note below.

Subsec. (e)(1). Pub. L. 104-188, §1616(b)(7)(A), substituted “by a taxpayer having a balance described in subsection (g)(2)(A)(ii)” for “by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)” in introductory provisions.

Pub. L. 104-188, §1616(b)(7)(C)-(E), in closing provisions, substituted “a taxpayer having a balance described in subsection (g)(2)(A)(ii)” for “the association or an institution that is treated as a mutual savings bank under section 591(b)” after “complete liquidation of” and for “an association” after “an interest in” and inserted at end “This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.”

Subsec. (e)(1)(B). Pub. L. 104-188, §1616(b)(7)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “then out of the reserve for

losses on qualifying real property loans, to the extent additions to such reserve exceed the additions which would have been allowed under subsection (b)(3).”.

Subsecs. (f), (g). Pub. L. 104-188, § 1616(a), added subsecs. (f) and (g).

1990—Subsec. (b). Pub. L. 101-508, § 11801(c)(12)(F), which directed the amendment of pars. (1)(A) and (E) by substituting “section 585(b)(2)” for “section 585(b)(3)”, was executed to pars. (1)(A) and (3). See 1996 Amendment note above.

1989—Subsec. (e)(1). Pub. L. 101-73 amended last sentence generally. Prior to amendment, last sentence read as follows: “This paragraph shall not apply to any transaction to which section 381 (relating to carryovers in certain corporate acquisitions) applies, or to any distribution to the Federal Savings and Loan Insurance Corporation in redemption of an interest in an association, if such interest was originally received by the Federal Savings and Loan Insurance Corporation in exchange for financial assistance pursuant to section 406(f) of the National Housing Act (12 U.S.C. sec. 1729(f)).”

1988—Subsec. (b)(2)(D)(v). Pub. L. 100-647, § 1003(c)(3), added cl. (v).

Subsec. (d)(4). Pub. L. 100-647, § 1006(t)(25)(B), inserted at end “For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMIC’s are part of a tiered structure, they shall be treated as 1 REMIC for purposes of this paragraph.”

1986—Subsec. (a). Pub. L. 99-514, § 901(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “This section shall apply to any mutual savings bank, domestic building and loan association, or cooperative bank without capital stock organized and operated for mutual purposes and without profit.”

Subsec. (b)(1). Pub. L. 99-514, § 901(d)(2)(A), (B), in introductory provisions, substituted “subsection (a)” for “section 166(c)” and in subpar. (B), substituted “paragraph (2) or (3), whichever is the larger” for “paragraph (2), (3), or (4), whichever amount is the largest” in introductory provisions and “paragraph (3)” for “paragraph (4)” in cl. (i).

Subsec. (b)(2)(A). Pub. L. 99-514, § 901(b)(2)(A), added subpar. (A) and struck out former subpar. (A) which provided that subject to subpars. (B), (C), and (D), the amount determined under par. (2) was to be an amount equal to applicable percentage of taxable income for such year determined under a table which fixed specific percentages for taxable years 1976, 1977, 1978, and 1979 or thereafter.

Subpar. (b)(2)(B). Pub. L. 99-514, § 901(b)(2)(A), added subpar. (B), which incorporated provisions of former subpar. (C), relating to reducing amounts referred to in par. (1)(A), and struck out former subpar. (B) which provided for reduction of applicable percentage in certain cases.

Subsec. (b)(2)(C). Pub. L. 99-514, § 901(b)(2)(A), (B), redesignated former subpar. (D) as (C) and struck out former subpar. (C) which related to reduction for amounts referred to in par. (1)(A). See par. (1)(B).

Subsec. (b)(2)(D). Pub. L. 99-514, § 901(b)(2)(B), (d)(2)(B), redesignated subpar. (E) as (D) and substituted in cl. (iv) “8 percent” for “the applicable percentage (determined under subparagraphs (A) and (B))”. Former subpar. (D) redesignated (C).

Subsec. (b)(2)(E). Pub. L. 99-514, § 901(b)(2)(B), redesignated subpar. (E) as (D).

Pub. L. 99-514, § 311(b)(2), redesignated former cl. (v) as (iv), and struck out former cl. (iv) which read as follows: “by excluding from gross income an amount equal to the lesser of  $\frac{19}{46}$  of the net long-term capital gain for the taxable year or  $\frac{19}{46}$  of the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii), and”.

Subsec. (b)(3), (4). Pub. L. 99-514, § 901(b)(3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “The amount determined under this paragraph to be a reasonable addition to the reserve for losses on qualifying real property loans shall be computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(2), reduced by the amount referred to in paragraph (1)(A) for the taxable year.”

Subsec. (b)(5). Pub. L. 99-514, § 901(b)(3), struck out par. (5) which read as follows: “For purposes of paragraph (3), the amount deemed to be the balance of the reserve for losses on loans at the beginning of the taxable year shall be the total of the balances at such time of the reserve for losses on nonqualifying loans, the reserve for losses on qualifying real property loans, and the supplemental reserve for losses on loans.”

Subsec. (d)(4). Pub. L. 99-514, § 671(b)(2), added par. (4).

Subsec. (e)(1)(B). Pub. L. 99-514, § 901(d)(2)(C), substituted “subsection (b)(3)” for “subsection (B)(4)”.

1981—Subsec. (a). Pub. L. 97-34, § 245(c)(1), struck out “not having capital stock represented by shares” after “mutual savings bank”.

Subsec. (b)(2)(B). Pub. L. 97-34, § 245(b)(1), inserted “which is not described in section 591(b)” after “mutual savings bank” in cls. (i) and (ii) and in last sentence.

Subsec. (b)(2)(C). Pub. L. 97-34, § 245(b)(2), inserted “which are not described in section 591(b)” after “mutual savings banks” in cl. (i).

Subsec. (e)(1). Pub. L. 97-34, § 245(c)(2), inserted “or an institution that is treated as a mutual savings bank under section 591(b)” after “domestic building and loan association” and “liquidation of the association”.

Pub. L. 97-34, § 243, inserted provisions making par. (1) inapplicable to any distribution to the Federal Savings and Loan Insurance Corporation in redemption of an interest in an association, if such interest was originally received by the Corporation in exchange for financial assistance pursuant to section 1729(f) of title 12.

1980—Subsec. (b)(2)(E)(iv). Pub. L. 96-222 substituted “ $\frac{19}{46}$ ” for “ $\frac{3}{8}$ ” in two places.

1976—Subsec. (b)(2)(A). Pub. L. 94-455, § 1901(a)(84)(A), struck from the percentage table the years 1969 to 1975, inclusive.

Subsec. (b)(2)(E)(i). Pub. L. 94-455, § 1901(a)(84)(D), substituted “subsection (e)” for “subsection (f)” after “by reason of”.

Subsec. (c)(2). Pub. L. 94-455, § 1901(a)(84)(B), added par. (2). Former par. (2), relating to allocation of pre-1963 reserves for bad debts, was struck out.

Subsec. (c)(3). Pub. L. 94-455, § 1901(a)(84)(B), redesignated par. (6) as par. (3). Former par. (3), relating to the method of allocation to reserves for bad debts, was struck out.

Subsec. (c)(4), (5). Pub. L. 94-455, § 1901(a)(84)(B), struck out par. (4) which defined “pre-1963 reserves”, and struck out par. (5) which related to certain pre-1952 surplus.

Subsec. (c)(6). Pub. L. 94-455, § 1901(a)(84)(B), redesignated par. (6) as (3).

Subsecs. (d) to (f). Pub. L. 94-455, § 1901(a)(84)(C), struck out subsec. (d) relating to the determination of taxable income for taxpayer which uses the reserve method of accounting for bad debts for taxable years beginning in 1962 and ending in 1963, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Subsecs. (e), (f). Pub. L. 94-455, § 1901(a)(84)(C), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

1969—Subsec. (b)(1)(A). Pub. L. 91-172, § 432(a)(1), inserted provisions for the method of computing the amount of the reasonable addition to the reserve for losses on nonqualifying loans.

Subsec. (b)(2). Pub. L. 91-172, § 432(a)(2), substituted a table of applicable percentages of the taxable income for each year up to 1979 and thereafter for the amount in excess of 60 percent over the amount referred to in former subsec. (b)(1)(A), transferred the remaining provisions of former subsec. (b)(2) to subpart (D), and added subpars. (B) to (E).

Subsec. (b)(3). Pub. L. 91-172, § 432(a)(2), substantially changed method of computation of the amount by conforming it to the method of determining the additions to the reserves for losses on loans of banks under section 585(b)(2).

Subsec. (b)(4). Pub. L. 91-172, § 432(a)(2), changed method of computation of the amount by conforming it to the method of determining the additions to the reserves for losses on loans of banks under section 585(b)(3).

Subsec. (b)(5). Pub. L. 91-172, § 432(a)(2), substituted provisions relating to determination of reserve for percentage method for provisions relating to limitation in case of certain domestic building and loan associations.

Subsec. (f). Pub. L. 91-172, § 432(b), excepted the application of par. (1) to any transaction to which section 381 of this title applied.

1962—Pub. L. 87-834 amended section generally. Prior to such amendment, section read as follows:

“§ 593. Additions to reserve for bad debts

“In the case of a mutual savings bank not having capital stock represented by shares, a domestic building and loan association, and a cooperative bank without capital stock organized and operated for mutual purposes and without profit, the reasonable addition to a reserve for bad debts under section 166(c) shall be determined with due regard to the amount of the taxpayer's surplus or bad debt reserves existing at the close of December 31, 1951. In the case of a taxpayer described in the preceding sentence, the reasonable addition to a reserve for bad debts for any taxable year shall in no case be less than the amount determined by the taxpayer as the reasonable addition for such year; except that the amount determined by the taxpayer under this sentence shall not be greater than the lesser of—

“(1) the amount of its taxable income for the taxable year, computed without regard to this section, or

“(2) the amount by which 12 percent of the total deposits or withdrawable accounts of its depositors at the close of such year exceeds the sum of its surplus, undivided profits, and reserves at the beginning of the taxable year.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 1616(c) of Pub. L. 104-188 provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 50, 52, 57, 246, 291, 585, 860E, 992, 1038, 1042, 1277, and 1361 of this title and repealing sections 595 and 596 of this title] shall apply to taxable years beginning after December 31, 1995.

“(2) SUBSECTION (b)(7)(B).—The amendments made by subsection (b)(7)(B) [amending this section] shall not apply to any distribution with respect to preferred stock if—

“(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

“(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act [Aug. 20, 1996] (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

“(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) [repealing section 595 of this title] shall apply to property acquired in taxable years beginning after December 31, 1995.

“(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) [amending section 860E of this title] shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.”

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 1401(c)(6) of Pub. L. 101-73 provided that: “The amendment made by subsection (b)(3) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 9, 1989].”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 311(b)(2) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 311(c) of Pub. L. 99-514, set out as a note under section 1201 of this title.

Amendment by section 671(b)(2) of Pub. L. 99-514 effective Jan. 1, 1987, see section 675(a) of Pub. L. 99-514, as amended, set out as an Effective Date note under section 860A of this title.

Amendment by section 901(b)(1)-(3), (d)(2) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 901(e) of Pub. L. 99-514, set out as a note under section 166 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Section 246(b) of Pub. L. 97-34 provided that: “The amendment made by section 243 [amending this section] shall apply to any distribution made on or after January 1, 1981.”

Amendment by section 245(b), (c) of Pub. L. 97-34 applicable with respect to taxable years ending after Aug. 13, 1981, see section 246(d) of Pub. L. 97-34, set out as a note under section 591 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 1969 AMENDMENT

Section 432(e) of Pub. L. 91-172 provided that: “The amendments made by this section [amending this section and section 7701 of this title] shall be effective for taxable years beginning after July 11, 1969.”

#### EFFECTIVE DATE OF 1962 AMENDMENT

Section 6(g)(1) of Pub. L. 87-834, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after December 31, 1962, except that section 593(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply to distributions after December 31, 1962, in taxable years ending after such date.”

#### SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

#### TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and its functions transferred, see sections 401



to 406 of Pub. L. 101-73, set out as a note under section 1437 of Title 12, Banks and Banking.

**§ 594. Alternative tax for mutual savings banks conducting life insurance business**

**(a) Alternative tax**

In the case of a mutual savings bank not having capital stock represented by shares, authorized under State law to engage in the business of issuing life insurance contracts, and which conducts a life insurance business in a separate department the accounts of which are maintained separately from the other accounts of the mutual savings bank, there shall be imposed in lieu of the taxes imposed by section 11 or section 1201(a), a tax consisting of the sum of the partial taxes determined under paragraphs (1) and (2):

(1) A partial tax computed on the taxable income determined without regard to any items of gross income or deductions properly allocable to the business of the life insurance department, at the rates and in the manner as if this section had not been enacted; and

(2) a partial tax computed on the income of the life insurance department determined without regard to any items of gross income or deductions not properly allocable to such department, at the rates and in the manner provided in subchapter L (sec. 801 and following) with respect to life insurance companies.

**(b) Limitations of section**

Subsection (a) shall apply only if the life insurance department would, if it were treated as a separate corporation, qualify as a life insurance company under section 816.

(Aug. 16, 1954, ch. 736, 68A Stat. 205; Mar. 13, 1956, ch. 83, §5(3), 70 Stat. 49; Pub. L. 98-369, div. A, title II, §211(b)(8), July 18, 1984, 98 Stat. 755.)

**AMENDMENTS**

1984—Subsec. (b). Pub. L. 98-369 substituted “section 816” for “section 801”.

1956—Subsec. (a)(2). Act Mar. 13, 1956, substituted “the income” for “the taxable income (as defined in section 803)”.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

**EFFECTIVE DATE OF 1956 AMENDMENT**

Amendment by act Mar. 13, 1956, applicable only to taxable years beginning after Dec. 31, 1954, see section 6 of act Mar. 13, 1956, set out as a note under section 821 of this title.

**[§§ 595, 596. Repealed. Pub. L. 104-188, title I, § 1616(b)(8), (9), Aug. 20, 1996, 110 Stat. 1857]**

Section 595, added Pub. L. 87-834, §6(b), Oct. 16, 1962, 76 Stat. 982; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to foreclosure on property securing loans, including provisions relating to nonrecognition of gain or loss as result of foreclosure, character of property, basis, and regulatory authority.

Section 596, added Pub. L. 91-172, title IV, §434(a), Dec. 30, 1969, 83 Stat. 624; amended Pub. L. 99-514, title IX, §901(d)(4)(D), Oct. 22, 1986, 100 Stat. 2380, provided that in case of organization to which section 593 of this title applied and which computed additions to reserve

for losses on loans for taxable year under section 593(b)(2) of this title, total amount allowed under sections 243, 244, and 245 of this title for taxable year as deduction with respect to dividends received was to be reduced by amount equal to 8 percent of such total amount.

**EFFECTIVE DATE OF REPEAL**

Repeal of section 595 applicable to property acquired in taxable years beginning after Dec. 31, 1995, and repeal of section 596 applicable to taxable years beginning after Dec. 31, 1995, see section 1616(c)(1), (3) of Pub. L. 104-188, set out as an Effective Date of 1996 Amendment note under section 593 of this title.

**§ 597. Treatment of transactions in which Federal financial assistance provided**

**(a) General rule**

The treatment for purposes of this chapter of any transaction in which Federal financial assistance is provided with respect to a bank or domestic building and loan association shall be determined under regulations prescribed by the Secretary.

**(b) Principles used in prescribing regulations**

**(1) Treatment of taxable asset acquisitions**

In the case of any acquisition of assets to which section 381(a) does not apply, the regulations prescribed under subsection (a) shall—

(A) provide that Federal financial assistance shall be properly taken into account by the institution from which the assets were acquired, and

(B) provide the proper method of allocating basis among the assets so acquired (including rights to receive Federal financial assistance).

**(2) Other transactions**

In the case of any transaction not described in paragraph (1), the regulations prescribed under subsection (a) shall provide for the proper treatment of Federal financial assistance and appropriate adjustments to basis or other tax attributes in connection with such assistance.

**(3) Denial of double benefit**

No regulations prescribed under this section shall permit the utilization of any deduction (or other tax benefit) if such amount was in effect reimbursed by nontaxable Federal financial assistance.

**(c) Federal financial assistance**

For purposes of this section, the term “Federal financial assistance” means—

(1) any money or other property provided with respect to a domestic building and loan association by the Federal Savings and Loan Insurance Corporation or the Resolution Trust Corporation pursuant to section 406(f) of the National Housing Act or section 21A<sup>1</sup> of the Federal Home Loan Bank Act (or under any other similar provision of law), and

(2) any money or other property provided with respect to a bank or domestic building and loan association by the Federal Deposit Insurance Corporation pursuant to section 11(f) or 13(c) of the Federal Deposit Insurance

<sup>1</sup> See References in Text note below.

Act (or under any other similar provision of law),

regardless of whether any note or other instrument is issued in exchange therefor.

**(d) Domestic building and loan association**

For purposes of this section, the term “domestic building and loan association” has the meaning given such term by section 7701(a)(19) without regard to subparagraph (C) thereof.

(Added Pub. L. 97-34, title II, § 244(a), Aug. 13, 1981, 95 Stat. 255; amended Pub. L. 99-514, title IX, § 904(b)(1), Oct. 22, 1986, 100 Stat. 2385; Pub. L. 100-647, title IV, § 4012(b)(2)(A)-(D)(i), (c)(1), Nov. 10, 1988, 102 Stat. 3657, 3658; Pub. L. 101-73, title XIV, § 1401(a)(3)(A), (b)(1), Aug. 9, 1989, 103 Stat. 548, 549; Pub. L. 101-239, title VII, § 7841(e)(1), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101-508, title XI, § 11704(a)(7), Nov. 5, 1990, 104 Stat. 1388-518.)

REFERENCES IN TEXT

Section 406 of the National Housing Act, referred to in subsec. (c)(1), which was classified to section 1729 of Title 12, Banks and Banking, was repealed by Pub. L. 101-73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

Section 21A of the Federal Home Loan Bank Act, referred to in subsec. (c)(1), was classified to former section 1441a of Title 12, Banks and Banking, prior to repeal by Pub. L. 111-203, title III, § 364(b), July 21, 2010, 124 Stat. 1555.

Sections 11(f) and 13(c) of the Federal Deposit Insurance Act, referred to in subsec. (c)(2), are classified to sections 1821(f) and 1823(c), respectively, of Title 12.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-508 substituted “For purposes of” for “The purposes of”.

1989—Pub. L. 101-73, § 1401(b)(1), repealed amendment made by Pub. L. 99-514, § 904(b)(1), see 1986 Amendment note below.

Pub. L. 101-73, § 1401(a)(3)(A), amended section generally, substituting present provisions for former provisions which contained section catchline that read “FSLIC or FDIC financial assistance” and which provided: in subsec. (a) for an exclusion from gross income; in subsec. (b) for no reduction in basis of assets; in subsec. (c) for a reduction of tax attributes by 50 percent of amounts excludable under subsection (a); and in subsec. (d) for a definition of “domestic building and loan association”.

Subsec. (b)(2). Pub. L. 101-239 substituted “in connection with such assistance” for “to reflect such treatment”.

1988—Pub. L. 100-647, § 4012(b)(2)(D)(i), substituted “FSLIC or FDIC” for “FSLIC” in section catchline.

Subsec. (a). Pub. L. 100-647, § 4012(b)(2)(A), inserted at end “Gross income of a bank does not include any amount of money or other property received from the Federal Deposit Insurance Corporation pursuant to sections 13(c), 15(c)(1), and 15(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f) and 1823(c)(1) and (c)(2)), regardless of whether any note or other instrument is issued in exchange therefor.”

Subsec. (b). Pub. L. 100-647, § 4012(b)(2)(C), substituted “association or bank” for “association”.

Subsec. (c). Pub. L. 100-647, § 4012(c)(1), added subsec. (c).

Subsec. (d). Pub. L. 100-647, § 4012(b)(2)(B), which directed amendment of section 597(b), as amended by section 4012(c)(1) of Pub. L. 100-647, by adding at the end thereof subsec. (d), was executed by adding subsec. (d) at the end of section 597, as amended by section 4012(c)(1) of Pub. L. 100-647, as the probable intent of Congress.

1986—Pub. L. 99-514, § 904(b)(1), (c)(2)(A), as amended by Pub. L. 100-647, title IV, § 4012(a)(2), which applica-

ble to transfers after Dec. 31, 1989, in taxable years ending after such date, with exceptions) directed repeal of this section, was repealed by Pub. L. 101-73, § 1401(b)(1), (c)(4), eff. Oct. 22, 1986, and I.R.C. of 1986 applicable as if the amendments made by such section had not been enacted.

EFFECTIVE DATE OF 1989 AMENDMENTS

Section 7841(e)(2) of Pub. L. 101-239 provided that: “The amendment made by this subsection [amending this section] shall apply as if included in the amendments made by section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73].”

Section 1401(c)(3)-(5) of Pub. L. 101-73 provided that: “(3) SUBSECTION (a)(3).—

“(A) IN GENERAL.—The amendments made by subsection (a)(3) [amending this section and repealing provisions set out below] shall apply to any amount received or accrued by the financial institution on or after May 10, 1989, except that such amendments shall not apply to transfers on or after such date pursuant to an acquisition to which the amendment made by subsection (a)(1) [amending section 368 of this title] does not apply.

“(B) INTERIM RULE.—In the case of any payment pursuant to a transaction on or after May 10, 1989, and before the date on which the Secretary of the Treasury (or his delegate) takes action in exercise of his regulatory authority under section 597 of the Internal Revenue Code of 1986 (as amended by subsection (a)(3)), the taxpayer may rely on the legislative history for the amendments made by subsection (a)(3) in determining the proper treatment of such payment.

“(4) SUBSECTION (b)(1).—The provisions of subsection (b)(1) [set out below] shall take effect on the date of the enactment of the Tax Reform Act of 1986 [Oct. 22, 1986].

“(5) SUBSECTION (b)(2).—The amendment made by subsection (b)(2) [amending provisions set out below] shall take effect on the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988 [Nov. 10, 1988].”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 4012(b)(2)(E) of Pub. L. 100-647 provided that: “The amendments made by this paragraph [amending this section] shall apply to any transfer—

“(i) after the date of the enactment of this Act [Nov. 10, 1988], and before January 1, 1990, unless such transfer is pursuant to an acquisition occurring on or before such date of enactment, and

“(ii) after December 31, 1989, if such transfer is pursuant to an acquisition occurring after such date of enactment and before January 1, 1990.”

Section 4012(c)(3) of Pub. L. 100-647, as amended by Pub. L. 101-73, title XIV, § 1401(b)(2), Aug. 9, 1989, 103 Stat. 549, provided that: “The amendments made by this subsection [amending this section and provisions set out below] shall apply to any transfer—

“(A) after December 31, 1988, and before January 1, 1990, unless such transfer is pursuant to an acquisition occurring before January 1, 1989, and

“(B) after December 31, 1989, if such transfer is pursuant to an acquisition occurring after December 31, 1988, and before January 1, 1990.

In the case of any bank or any institution treated as a domestic building and loan association for purposes of section 597 of the 1986 Code by reason of the amendment made by subsection (b)(2)(B), the amendments made by this subsection shall also apply to any transfer before January 1, 1989, to which the amendments made by subsection (b)(2) [amending this section] apply.”

EFFECTIVE DATE OF REPEAL

Pub. L. 99-514, title IX, § 904(c)(2), Oct. 22, 1986, 100 Stat. 2385, as amended by Pub. L. 100-647, title IV, § 4012(a)(2), (c)(2), Nov. 10, 1988, 102 Stat. 3656, 3660, which provided that repeal of this section was to be ap-

plicable to transfers after Dec. 31, 1989, in taxable years ending after such date, with exceptions, and which related to clarification of treatment of amounts excluded under this section, was repealed by Pub. L. 101-73, title XIV, § 1401(a)(3)(B), (b)(1), Aug. 9, 1989, 103 Stat. 549.

#### EFFECTIVE DATE

Section 246(c) of Pub. L. 97-34 provided that: “The amendment made by section 244 [enacting this section] shall apply to any payment made on or after January 1, 1981.”

#### TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and its functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of Title 12, Banks and Banking.

#### REPEAL OF PROVISIONS RELATING TO REPEAL OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS

Section 1401(b)(1) of Pub. L. 101-73 provided that: “Section 904 of the Tax Reform Act of 1986 [Pub. L. 99-514, amending section 368 of this title, repealing this section and enacting provisions set out as notes under sections 368 and 597 of this title] (other than subsection (c)(2)(B) thereof [section 904(c)(2)(B) of Pub. L. 99-514, formerly set out as a note above]) is hereby repealed and the Internal Revenue Code of 1986 shall be applied as if the amendments made by such section had not been enacted.”

#### REFERENCES TO FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Section 1401(c)(7) of Pub. L. 101-73 provided that: “Any reference to the Federal Savings and Loan Insurance Corporation in section 597 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act [Aug. 9, 1989]) shall be treated as including a reference to the Resolution Trust Corporation and the FSLIC Resolution Fund.”

#### ANNUAL REPORTS ON TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED

Pub. L. 101-73, title XIV, § 1403, Aug. 9, 1989, 103 Stat. 551, which required the Secretary of the Treasury to submit annual reports to the Senate and to the Committee on Ways and Means of the House of Representatives on transactions with respect to which Federal financial assistance subject to this section was provided, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 142 of House Document No. 103-7.

#### [§ 601. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(85), Oct. 4, 1976, 90 Stat. 1778]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 206, related to a special deduction for bank affiliates.

#### EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

### Subchapter I—Natural Resources

Part	
I.	Deductions.
[II.]	Repealed.]
III.	Sales and exchanges.
IV.	Mineral production payments.
V.	Continental shelf areas.

## PART I—DEDUCTIONS

Sec.	
611.	Allowance of deduction for depletion.

Sec.	
612.	Basis for cost depletion.
613.	Percentage depletion.
613A.	Limitations on percentage depletion in case of oil and gas wells. <sup>1</sup>
614.	Definition of property.
[615.]	Repealed.]
616.	Development expenditures.
617.	Deduction and recapture of certain mining exploration expenditures.

#### AMENDMENTS

1990—Pub. L. 101-508, title XI, § 11801(b)(7), Nov. 5, 1990, 104 Stat. 1388-522, struck out item for part II “Exclusions from gross income”.

1976—Pub. L. 94-455, title XIX, § 1901(b)(21)(H), Oct. 4, 1976, 90 Stat. 1798, struck out item 615 “Exploration expenditures”.

1969—Pub. L. 91-172, title V, §§ 503(b), 505(c), Dec. 30, 1969, 83 Stat. 631, 634, added items for parts IV and V.

Pub. L. 91-172, title V, § 504(c)(5), Dec. 30, 1969, 83 Stat. 633, substituted “Pre-1970 exploration expenditures” for “Exploration expenditures” in item 615 and substituted “Deduction and recapture of certain mining exploration expenditures” for “Additional exploration expenditures in the case of domestic mining” in item 617.

1966—Pub. L. 89-570, § 1(d), Sept. 12, 1966, 80 Stat. 762, added item 617.

### § 611. Allowance of deduction for depletion

#### (a) General rule

In the case of mines, oil and gas wells, other natural deposits, and timber, there shall be allowed as a deduction in computing taxable income a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under regulations prescribed by the Secretary. For purposes of this part, the term “mines” includes deposits of waste or residue, the extraction of ores or minerals from which is treated as mining under section 613(c). In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this section for subsequent taxable years shall be based on such revised estimate.

#### (b) Special rules

##### (1) Leases

In the case of a lease, the deduction under this section shall be equitably apportioned between the lessor and lessee.

##### (2) Life tenant and remainderman

In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant.

##### (3) Property held in trust

In the case of property held in trust, the deduction under this section shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the

<sup>1</sup> Editorially supplied. Section 613A added by Pub. L. 94-12 without corresponding amendment of part analysis.